

UNITED STATES OF AMERICA
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001

Competitive Product Prices
International Business Reply Service
Competitive Contracts 3 (MC2011-21)
Negotiated Service Agreement

Docket No. CP2013-78

PUBLIC REPRESENTATIVE COMMENTS ON
NOTICE OF UNITED STATES POSTAL SERVICE
PRICES UNDER FUNCTIONALLY EQUIVALENT
INTERNATIONAL BUSINESS REPLY SERVICE COMPETITIVE CONTRACT 3
NEGOTIATED SERVICE AGREEMENT

(March 25, 2015)

The Public Representative hereby provides comments pursuant to Order No. 2400.¹ In that Order, the Commission established the above referenced docket to receive comments from interested persons, including the undersigned Public Representative, on a Postal Service Notice of its entry into contingency prices pursuant to an outstanding International Business Reply Service (IBRS) competitive contract.²

In general, IBRS competitive contracts included within the International Businesses Reply Service Competitive Contract 3 product permit businesses that sell light-weight articles in foreign countries to offer their consumers a method of returning the articles to the United States for recycling, refurbishment, repair, or other value-added processing.³ These contracts, including the contract that is subject of this docket, include a contingency clause which allows the Postal Service to change rates

¹ PRC Order No. 2400, Notice and Order Concerning Additional International Business Reply Service Competitive Contract 3 Negotiated Service Agreement March 18, 2015.

² Notice of United States Postal Service of Prices Under Functionally Equivalent International Business Reply Service Competitive Contract 3 Negotiated Service Agreement, March 16, 2015 (Contingency Notice).

³ Public Representative Comments on Postal Service Notice of Filing an Additional International Business Reply Service Competitive contract 3 Negotiated Service Agreement. September 21, 2012.

based on cost increases without entering into a new agreement.⁴ *Contingency Notice* at 2. The Postal Service provided contingency pricing to the mailer which will remain in effect “unless the Postal Service chooses to modify the rates.” *Contingency Notice* at 3.

Prices and classifications “not of general applicability” for IBRS contracts were previously established by Governors’ Decision No. 08-24.⁵ In Order No. 684, the Commission added the International Businesses Reply Service Competitive Contract 3 product to the competitive product list (MC2011-21), and included within that product an IBRS competitive contract (CP2011-59) that would serve as the baseline agreement for functional equivalence comparisons with future agreements.⁶ The Commission subsequently determined that IBRS competitive contracts filed in Docket Nos. CP2011-61 and CP2011-70 were functionally equivalent to the baseline agreement and should be included in the International Businesses Reply Service Competitive Contract 3 product.⁷ The Commission also included additional IBRS competitive contracts filed in Docket Nos. CP2012-16, CP2012-17, CP2012-18 and CP2012-54 within the product.⁸

In this proceeding, the Postal Service requests that the Commission add the contingency arrangement to the IBRS Competitive Contract 3 product based on its functional equivalence to the baseline contract filed in Docket Nos. MC2011-21 and CP2011-59. *Contingency Notice* at 4 - 5.

⁴ The Commission stated that the Postal Service shall file rate changes occurring as the result of a contractual contingency with the Commission and provide at least 15 days’ advance notice of the change in rates. PRC Order No. 1698 at 5-8.

⁵ See Request of the United States Postal Service to Add International Business Reply Service Contracts to the Competitive Products List, and Notice of Filing (Under Seal) Contract and Enabling Governors’ Decision, Docket Nos. MC2009-14 and CP2009-20, December 24, 2008.

⁶ See PRC Order No. 684, Order Approving International Business Reply Service Competitive Contract 3 Negotiated Service Agreement, Docket Nos. MC2011-21 and CP2011-59, February 28, 2011.

⁷ See PRC Order No. 693, Order Approving an Additional International Business Reply Service Competitive Contract 3 Negotiated Service Agreement, Docket No. CP2011-61, March 11, 2011; see also PRC Order No. 844, Order Approving an Additional International Business Reply Service Competitive Contract 3 Negotiated Service Agreement, Docket No. CP2011-70, September 9, 2011.

⁸ See PRC Order No. 1260, Order Adding Contract to International Business Reply Service Competitive Contract 3 Product, Docket No. CP2012-16, February 27, 2012; see also PRC Order No. 1280, Order Adding Contract to International Business Reply Service Competitive Contract 3 Product, Docket No. CP2012-17, March 9, 2012; PRC Order No. 1298, Order Adding Contract to International Business Reply Service Competitive Contract 3 Product, Docket No. CP2012-18, March 27, 2012; and, PRC Order No. 1467, Order Adding Contract to International Business Reply Service Competitive Contract 3 Product, September 13, 2012.

COMMENTS

The Public Representative has reviewed the original negotiated contract, contingency contract, and supporting financial models filed under seal. Based upon that review, the Public Representative notes the evident differences between the original and contingency prices.⁹ Nonetheless, the Public Representative concludes that the instant contract's contingency pricing remains functionally equivalent to the baseline agreement. In addition, it appears the contingency prices shall generate sufficient revenues to cover costs and satisfy the requirements of 39 U.S.C. § 3633.

The Public Representative respectfully submits the foregoing comments for the Commission's consideration.

Curtis E. Kidd
Public Representative

901 New York Ave. NW
Washington, DC 20268-0001
202-789-6881
curtis.kidd@prc.gov

⁹ Discussion of the Public Representative's analysis of the financial models, final contract, and contract prices filed under seal is restricted due to commercial sensitivity.